

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Allen R. Aiken, #253738,

Plaintiff,

vs.

Judge Cottingham, State of South Carolina,
Department of Parole, Probation and Pardon)
Services, South Carolina Department of)
Corrections, Warden, Robert M. Stevenson,)
III,)

Defendants.

C.A. No.: 9:08-02491-RBH

ORDER

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Bristow Marchant, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

No objections were filed to the Report and Recommendation. The defendant was notified by [docket entry #9] Order to “keep the Clerk of Court advised in writing of any change of

address.” The defendant filed [docket entry #16] Notice of Change of Address on August 25, 2008. On August 28, 2008, the Report and Recommendation was mailed to the defendant at his last known address [docket entry #19]. The Report and Recommendation was returned to the Court on September 5, 2008 with the return envelope being marked, “Return to Sender, Attempted - Not Known-Unable to Forward.” In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge Marchant’s Report and Recommendation and incorporates it herein. It is therefore

ORDERED that the complaint in this action is hereby DISMISSED for the reasons set forth by the Magistrate Judge and for failure to prosecute pursuant to Rule 41(b) without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. BRYAN HARWELL
United States District Judge

Florence , South Carolina
September 26, 2008